
**Public Safety & Emergency
Preparedness Committee**

HB 2402

Brief Description: Enhancing the penalties for crimes against victims whose immediate family member has died.

Sponsors: Representatives Kelley and Morrell.

Brief Summary of Bill

- Adds a 12-month sentencing enhancement onto an offender's sentence if he or she is convicted of certain specified crimes and the victim has had an immediate relative die within six months of the commission of the offense.

Hearing Date: 1/21/08

Staff: Yvonne Walker (786-7841).

Background:

Under the Sentencing Reform Act (SRA), courts sentence defendants based on the seriousness level of the offense and the offender's prior criminal history. However, under the SRA, the court must impose imprisonment in addition to the standard sentencing range if specific conditions for sentencing enhancements are met. Sentencing enhancements may apply if any of the following apply: (1) the offender was armed with a firearm while committing certain felonies; (2) the offender was armed with a deadly weapon while committing certain felonies; (3) the offender committed certain felonies while incarcerated; (4) the offender committed certain drug offenses; (5) the offender committed vehicular homicide while under the influence of alcohol or drugs; or (6) the offender committed a felony crime that was committed with sexual motivation.

Identity Theft. A person commits Identity Theft if he or she knowingly obtains, possesses, uses, or transfers another person's means of identification or financial information with the intent to commit, or aid or abet, any crime.

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A person commits Identity Theft in the first degree if he or she, or an accomplice, uses the means of identification or financial information to obtain an aggregate total of credit, money, goods, services, or anything else of value in excess of \$1,500. Identity Theft in the first degree is a seriousness level IV, class B felony offense.

A person commits Identity Theft in the second degree if he or she, or an accomplice, uses the victim's means of identification or financial information and obtains: (a) an aggregate total of credit, money, goods, services, or anything else of value less than \$1,500; or (b) no credit, money, goods, services, or anything else of value. Identity Theft in the second degree is a seriousness level II, class C felony offense.

Criminal Impersonation. A person is guilty of criminal impersonation in the first degree if he or she:

- assumes a false identity and does an act in his or her assumed character to defraud another or for any other unlawful purpose; or
- pretends to be a representative of some person or organization or a public servant and does an act in his or her pretended capacity with intent to defraud another or for any other unlawful purpose.

Criminal impersonation in the first degree is an unranked class C felony offense.

Theft. A person is guilty of theft in the first degree, if such person commits theft of property or services that exceed \$1,500 in value other than a firearm. Theft in the first degree is ranked as a seriousness level II, class B felony offense under the SRA, which for a first-time adult offender has a standard sentence range of zero to 90 days in jail.

A person is guilty of theft in the second degree, if the person commits theft of a motor vehicle valued at \$1,500 or less. Theft in the second degree is ranked as a seriousness level I, class C felony offense under the SRA, which for a first-time adult offender has a standard sentence range of zero to 60 days in jail.

Forgery. A person is guilty of forgery if he or she falsely makes, completes, or alters a written instrument or possesses, utters, offers, disposes of, or puts off as true a written instrument that he or she knows to be forged with the intent to injure or defraud. Forgery is a class C felony with a seriousness level of I. For a first-time offender, the standard range for this crime is zero to 60 days.

Summary of Bill:

In a prosecution for an offense involving theft in the first or second degree, forgery, identity theft in the first or second degree, or criminal impersonation in the first degree, the prosecution may file a special allegation that an immediate relative of the victim has died within six months of the commission of the offense. The prosecutor has the burden of proving the allegation to the jury (or the judge, if there is no jury). If the allegation is proved, an additional 12 months must be added to the standard sentence range for the offense.

"Immediate relative of the victim" is defined as, the victim's spouse, biological or adopted child, parent, or sibling.

Appropriation: None.

Fiscal Note: Requested on January 15, 2008.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.